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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,126	01/19/2001	Jonathan E. Lowthert	42390P10894	9474

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EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	**PAPER NUMBER**
2616	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/766,126	LOWTHERT ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *17-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9/6/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 17, 18, 21-24, 27-28, 29, 32-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Morrison (5,815,671).

Regarding claim 17, Morrison teaches computer accessible medium (10, Fig. 1, column 4, lines 35-60) having represented therein:

a plurality of segments of a program (Fig. 4); and

interlaced between the segments of the program, a plurality of info segment pointers to provide access to an info segment (column 6) ; and

an info segment, separate from said pointer, to be retrieved by a computer accessing said medium and in response to the detection of said pointer by said computer, said info segment including,

a content identifier to associate the info segment with the program, and

a plurality of entries, each entry specifying, an interruption point to identify a location in said content to insert an advertisement played (column 7, lines 1-65, column 8, lines 10-60), and

one or more conditions controlling the interruption.

Regarding claim 18, Morrison further teaches 818. (Currently Amended) The computer accessible medium of claim 17 wherein the one or more conditions comprise:

whether a user can override insertion of the a commercial;

whether a particular type of commercial is allowed to be played at the interruption point (column 9, lines 1-40); and

whether the a commercial can be skipped by virtue of a financial payment.

Regarding claim 21, Morrison discloses a system (Figs.1, 2, column 4, lines 35-61) comprising:

a receiver to receive content and an info segment including an interruption point specifier which identifies a location in said content to insert an advertisement;

a cache coupled to said receiver to store said content and said info segment; and an interface, in said receiver, to find the location in said content, identified by said info segment, to insert an advertisement (commercial message) (Figs 4-6, columns 6-8).

Method claim 29 corresponds to apparatus claim 21. Therefore method claim 29 is rejected by the same reason as applied to apparatus claim 21. Further for claim 29, Morison teaches the receiver to receive an info segment including a content identifier

to associate the info segment with a content item while stored in said cache (column 5, lines 1-28, column 9).

Regarding claim 22, Morison further teaches the system of claim 21 wherein said receiver is a television receiver (figs. 1,2) .

Regarding claim 23, Morrison further teaches the system of claim 21 wherein said receiver to receive an info segment including a content identifier to associate the info segment with a content item while stored in said cache (column 5, lines 1-28, column 9).

Regarding claim 24, Morison further teaches the system of claim 23 wherein said interface to find a content item identified by said content identifier while stored in said cache and to find the location, identified by said interruption point specifier, in the cached content to insert an advertisement (columns 6-9, Figs. 5-6).

Regarding claims 27 and 32, Morrison further teaches the receiver to receive an info segment including an ad type specifier to prevent an advertisement from interrupting a content item if the advertisement meets a predetermined criterion (column 10).

Regarding claims 28 and 33, Morrison further teaches the receiver to receive an info segment including an ad lock specifier to permit an advertisement to be skipped if a predetermined criterion is met (column 10).

Regarding claim 34, Morrison further teaches requiring play of an advertisement if said content is not owned by a user of the receiver and skipping said advertisement if said content was purchased by said user (column 9,lines 35-55).

Regarding claim 35, Morrison further teaches identifying a location in said content to insert an advertisement based on a play specific factor (column 9, line 60 to column 10, line 55).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison (5,815,671) in view of Ward III et al (6,756,997).

Regarding claim 19, Morrison teaches computer accessible medium (10, Fig. 1, column 4, lines 35-60) having represented therein:

a plurality of segments of a program (Fig. 4); and

interlaced between the segments of the program, a plurality of info segment pointers to provide access to an info segment (column 6) ; and

an info segment, separate from said pointer, to be retrieved by a computer accessing said medium and in response to the detection of said pointer by said computer, said info segment including; and

a content identifier to associate the info segment with the program, and

a plurality of entries, each entry specifying, an interruption point to identify a location in said content to insert an advertisement played (column 7, lines 1-65, column 8, lines 10-60).

Morison fails to teaches a plurality of program identifications within said electronic programming guide.

However, it is noted that using program identifications within electronic program guide for identifying the programs is well known in the art as taught by Ward III (column 11, line 50 to column 12, line 32). It would have been obvious to one of ordinary skill in the art to modify Morrison with BB by providing the program identifications for programs in order to easily selecting a program for viewing .

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison (5,815,671) in view of Ward III et al as applied to claim 19 above , further in view of Seet et al (6,725,203)

Morrison fails to teaches a maximum interruption length specifier as recited in claim 20 .

Seet teaches an apparatus for displaying advertisement , the advertisement having a maximum length specifier (advertisement display time length)(Fig. 5) .

It would have been obvious to one of ordinary skill in the art to modify Morrison with Seet by providing the advertisement display time information as a maximum interruption length specifier for each of ad of Morison thereby allowing accurately control the access the advertisement .

Further for claim 20, , Morrison teaches :

at least one of the info segments represented therein further includes a maximum interruption length specifier;

at least one of the info segments represented therein further includes a permitted ad type specifier (column 10);

at least one of the info segments represented therein further includes a prohibited ad type specifier (column 10); and

at least one of the info segments represented therein further includes an ad lock specifier (column 10).

6. Claims 25, 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison (5,815,671) in view of Seet et al (6,725,203).

Regarding claims 25 and 30, Morrison fails to teaches a maximum interruption length specifier .

Seet teaches an apparatus for displaying advertisement , the advertisement having a maximum length specifier (advertisement display time length)(Fig. 5) .

It would have been obvious to one of ordinary skill in the art to modify Morrison with Seet by providing the advertisement display time information as a maximum interruption length specifier to each of ad of Morrison thereby allowing accurately control the access the advertisement .

Regarding claim 36, Morrison as modified with Seet further teaches controlling inserting an advertisement in said content only if said content is selected for play less than a predetermined number of times (See Morison column 60 to column 10, line 50, Seet , column 16, lines 25-35).

7. Claim 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Rakavy et al (5,913,040) .

Regarding claims 26 and 31 , Morison fails to teach using resume indicator for overriding play of the advertisement .

Rakavy teaches an apparatus for a play advertisement and having means for overriding a play of a advertisement by disable displaying an advertisement (column 10 lines 35-41). It would have been obvious to one of ordinary still in the art to modify Morrison with Rakavy by using the teaching of Rakavy for generating a resume indicator for overriding the play of the advertisement thereby enabling the user controls the play of advertisements .

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ebisawa and Gilmore teaches a apparatus for inserting ad information into a program for a specified time length.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HUY NGUYEN
PRIMARY EXAMINER

H.N